February 28, 2006

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Houston Office

Department of the Interior
Manager, Minerals Management Service
Attention: Rules Processing Team
381 Elden Street MS-4024
Herndon, VA 20170-4817

RE: Alternate Energy-Related Uses on the Outer Continental Shelf
RIN 1010 – AD30

To Whom It May Concern:

The International Association of Geophysical Contractors (IAGC) is pleased to respond to your request for comments on the Advanced Notice of Proposed Rulemaking (ANPR) regarding Alternate Energy-Related Uses on the Outer Continental Shelf. The IAGC is a worldwide organization that represents all facets of the geophysical business including but not limited to, seismic acquisition, seismic data processing and non-exclusive/multi-client data ownership. IAGC members are sharply focused on oil and gas development from the domestic offshore and our interest in the development of regulations regarding the alternate uses of the outer continental shelf is significant.

IAGC member companies have and continue to invest vast amounts of capital in the acquisition, processing and reprocessing of non-exclusive geophysical data. Specifically, annual aggregate investments by IAGC seismic companies in the Gulf of Mexico and other OCS areas are in the hundreds of millions of dollars. The value of the cumulative investment of data still owned and used today is measured in the billions of dollars, and represents a significant percentage of the current book value of some of the companies in the geophysical industry.

Seismic companies play an integral role in the successful exploration and development of offshore hydrocarbon resources through the acquisition and processing of non-exclusive data. Non-exclusive data has become an integral part of the exploration, development and production of hydrocarbon resources and is utilized in the preparation and decisions made by exploration and production companies as well as the MMS relative to each lease sale. [For a more in-depth discussion of this topic, please refer to IAGC's comments dated September 16, 2002 on MMS' proposed rulemaking; Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Geological and Geophysical (G&G) Explorations Of the Outer Continental Shelf – Proprietary Terms and Data Disclosure (67 CFR 46942 – July 17, 2002).]

Many of these same seismic companies are contracted by exploration and production companies to acquire seismic data on an exclusive (proprietary/confidential) basis. The

data are used for exploration, development and reserve calculations purposes and may be acquired over the same area once or multiple times, over a period of months or years.

The importance of this rulemaking is not lost on the IAGC and its member companies. Developing and implementing regulations for the multiple use/activity within the OCS after years of having oil and gas exploration and development as the primary, if not sole activity, will require thoughtful consideration by all parties. The contribution that alternative energy sources such as offshore wind farms and wave generation can make to meet the ever growing energy demands of our nation is important. However the significance and need for continued exploration and development of the offshore resources should be recognized and it should remain a high priority.

Overall Comments:

The IAGC provides the following general comments for your consideration.

- Areas of the OCS that have existing oil and gas activity, as well as those areas that have oil and gas potential but currently are not productive, are under moratoria or are not scheduled for leasing are important to meeting near term U.S. energy demands. Therefore as MMS develops processes and regulations for alternate energy related uses, access to those areas for natural gas and oil exploration and production should be given priority.

- To ensure all stakeholders understand the issues, and to support their participation in the ensuing deliberative process, MMS should develop a comprehensive consultative process to address: 1) the development of regulations; 2) the consideration of potential areas for alternate use, and; 3) the review and approval of individual projects.

- Regional management for alternate uses of the OCS is the most practical approach given the variety of uses of the OCS contemplated by the MMS and that the Gulf of Mexico and offshore Alaska already support oil and gas activity as well as the other areas of the OCS that are being considered in the next OCS 5-year lease plan.

- In considering multiple use of an area of the OCS, the federal government should consider the most productive use of that area (i.e. hydrocarbon resource versus alternative energy generation).

- If an OCS block is removed or significantly limited or impaired from hydrocarbon development due to the siting of an alternate use structure, the revenue generated from that use should be sufficient to compensate the federal government for the potential lost revenue from hydrocarbon production.

- If an OCS block is removed or significantly limited or impaired from hydrocarbon development due to alternate energy uses, it will have a chilling effect on exploration for and production of natural gas and oil, and on the acquisition and ownership of

non-exclusive geophysical data. The availability of non-exclusive data has become a an important component of the exploration for and production of natural gas and oil. The underlying assumption supporting non-exclusive data investments is that by lowering the cost of obtaining (licensing) high quality seismic data, E&P companies will be able to afford to license seismic data and use it to explore over a particular OCS block or area in order to assess hydrocarbon potential. By utilizing latest technologies, E&P companies find and produce more of the existing resource base, supplying the U.S. with this critical resource. Investment decisions in non-exclusive seismic surveys are based on the probability of multiple sales of the data, which are fueled by turn-over of the OCS blocks within that survey. If blocks are removed or impaired by alternative uses such that oil and gas activity is limited, it will significantly affect the ability to meet the sales projections on which the seismic surveys were founded and upon which investments were made (financial impairment). Non-exclusive data investment is not sustainable under those conditions.

- Today, seismic data acquisition (both exclusive and non-exclusive) is an integral and important step in the exploration and development of hydrocarbon resources, and also to the calculation of hydrocarbon reserves. New seismic surveys are acquired with better technologies and produce higher resolution images of the subsurface, thereby allowing ever greater precision in these endeavors. Data from these programs are widely utilized by, and are critical to MMS in the management of natural gas and oil in the OCS, and ultimately become available to the public.

  Following the laws of physics, a 'rule of thumb' can be asserted: to create the 3-D subsurface image of one output OCS block, it requires input of nine OCS blocks to obtain post-stack time migrated data and input of up to forty OCS blocks to obtain pre-stack depth migrated data. If an OCS block has been relegated to alternative uses such that a large surface area is obstructed, impaired, or considered an exclusion zone, it will hinder the ability to acquire seismic data over the necessary surface area. It therefore follows that the inability to obtain seismic coverage over a particular area will affect the ability to properly image adjacent areas.

  However it will also hinder the ability to acquire it by the efficient, cost effective towed streamer method (no room for the towed streamer spreads to fit). In relegating acquisition options to the more costly seafloor based options, it follows that the more costly a survey, the higher the economic hurdles are for a project and therefore the less likely it will be funded.

  MMS should take into consideration seismic operations when considering multiple uses and should attempt to minimize possible logistical encumbrances of future seismic data acquisition programs. Pushing seismic data acquisitions to those more costly techniques should be minimized wherever possible. If and when existing non-exclusive seismic data surveys are financially impaired (given today's extensive coverage this seems unavoidable), MMS should fairly compensate the owners of that data. Compensation should be based upon a method that considers full project costs

(including the time value and the lost opportunity of the investment) as well as project revenues.

Program Areas

IAGC has the following general comments which span several of the Program Areas for which MMS is requesting comment. We will make those comments here and refer MMS to the appropriate Program Area sections:

Given that authorized alternative energy projects may compete with other uses of the OCS and when doing so will encumber them, MMS should ensure that the parties proposing alternative energy projects are serious about undertaking the projects, and that the projects themselves are bona fide and realistic. To that end, all methods developed by MMS to authorize alternative energy projects in the OCS should include the following:

- Adequate prequalification methods that demonstrate the proposing party has the necessary wherewithal and competence to carry out the project;

- To demonstrate ability and intent, require upfront (bonus type) investment before granting rights to OCS;

- To demonstrate ongoing viability of the project prior to start-up, require ongoing financial investment such as meeting specified work commitments or payment of 'delay rental' in lieu of work commitment;

- Specific deadlines by which specific action should be undertaken;

- Clear termination of authorized rights when a party does not perform;

- Narrow authority to MMS to suspend commitments and extend termination;

- Clear obligation of acquiring party to remove all structures and facilities, with the original applicant retaining ultimate liability for such removal in the event subsequent assignee does not/can not meet this obligation.

Responses to Specific Questions

1. Are there regulatory regimes, either in the U.S. or abroad, that address similar or related issues that should be reviewed or considered as MMS moves forward with the rulemaking process?

MMS should evaluate UK, Norway and other European countries that promote offshore wind farms, wave energy generation and oil and gas E&P to assist them in establishing an understanding of how well these potentially conflicting uses are managed.

Program area: Access to OCS Lands and Resources

Specific questions:

2. *Possible development scenarios include phased access rights, which would allow for resource and/or site assessments and research prior to securing additional access rights. Rights could be permitted on a case-by-case basis. Development rights would be secured by a competitive process. An alternative would be to require that interested parties secure the access rights to an area prior to conducting assessments and research. Please comment on these possible options*.

At a minimum, a process that notices all stakeholders - - including all sectors of the E&P industry - - of the offshore area of interest should be established so as to provide those stakeholders adequate opportunity to comment regarding the potential or likely competing interest in the same area. In either case, it would be beneficial to provide notification allowing ample time to complete any proposed seismic surveys prior to award of any development rights.

3. In cases where applicants or interested parties propose activities that would foreclose competing future uses, how should MMS estimate "a fair return," especially if the competing uses would likely be public uses?

If offshore acreage is impaired - - in part or in whole - - from future oil and gas leasing, exploration, development and production, then the value of the lost revenue from that resource should be considered.

In the GOM, there is adequate data to reasonably calculate the value of "lost" resources due the MMS imposing restrictions or prohibiting the leasing of certain offshore acreage. That calculated value of "lost" resources should be incorporated in the calculated value of any easement or ROW issued by the MMS. In areas other than the GOM and possibly Alaska, where there is data but not to the same extent, similarly the MMS should make a calculation of the value of "lost" resources and incorporate it in the value of any easement or ROW issued.

4. What constitutes a geographical area of interest?

A geographical area of interest should be no greater than a single OCS block that is currently leased for oil and gas development and should be subject to the same partitions.

5. *What assessments should we require prior to competition?*

There should be an assessment as to the relative impact to the existing business activity that has traditionally occurred within a geographical area of interest to address a best use case. In addition, all environmental impact assessments that

are currently required for any proposed federal activity in the OCS should be required.

6. *How should MMS structure the competitive process and the application process used to issue OCS access rights? Should MMS auction access rights or engage in direct negotiation?*

The competitive process should be no different than what is currently used for oil and gas mineral leasing.

7. *Should MMS take a broad approach to developing a program, or should efforts be targeted to specific regions?*

Regional management for alternate uses of the OCS would seem to be the most practical approach given: 1) the variety of uses of the OCS contemplated by the MMS; 2) that the Gulf of Mexico and offshore Alaska already support oil and gas activity, and; 3) that other areas of the OCS are being considered in the next OCS 5-year lease plan.

8. *How should MMS consider other existing uses when identifying areas for access?*

In considering multiple use of an area of the OCS the federal government should consider the most productive use of that area (i.e. hydrocarbon resource versus alternative energy generation). MMS should also consider seismic data acquisition programs. Limited access to any large area will affect the ability to properly image seismic data for use in the exploration and development of hydrocarbons and reserve calculations.

9. *How should MMS balance existing uses within an area with potential wind and current energy projects?*

Structures in the water (wind turbines or wave turbines) will create obstacles for which seismic companies must compensate, both in terms of acquiring and processing the seismic data. In offshore areas such as the GOM and Alaska, where oil and gas leasing, exploration, development and production are already occurring, the MMS should give the predominant existing use / activity - - oil and gas - - preferential consideration and require wind and energy projects to ensure their activity will not impair or limit the existing activity.

10. *Should MMS require permits for collecting data from vessels? Should we consider this information proprietary? What criteria should we use for holding the information proprietary?*

Collecting data from vessels or any facility or structure that is already in place (such as an offshore platform) for the purposes of evaluating the value of or the potential environmental impact of an area or specific site to be used should be

permitted unless the data to be collected is associated with an ongoing project and the collection of that data is required as part of a lease agreement, ROW, easement, etc.

For seismic data, there is a defined permit process and the resulting data has specific periods of confidentiality. There should be a defined permit process and confidentiality period, etc for non-conventional data just as there is for seismic data and the underlying ownership of the data should remain with the party who acquired it.

11. *What criteria (e.g. environmental considerations, energy needs, economics) should MMS consider in deciding whether or not to approve a project? What criteria should MMS consider for different competing projects (i.e. wind versus current) for the same site?*

MMS should always consider and approve projects in the OCS based upon a "best use" basis. In determining the "best use" for an area, it would be appropriate for the MMS to evaluate projects as to their contribution to the national energy needs, local or regional economies, proximities to existing or near term energy markets, least intrusive to other activities within the area and the potential for lasting environmental impact.

Program Area: Environmental Information, Management, and Compliance

Specific questions:

12. *What types and levels of environmental information should MMS require for a project?*

The types and levels of environmental information should be at a minimum similar to that required of seismic and drilling activity to meet NEPA requirements.

13. *What types of site-specific studies should MMS require? When should these studies be conducted? Who should be responsible for conducting these studies?*

IAGC does not intend to answer this question.

14. What should be the goals and objectives of monitoring, mitigation, and enforcement?

IAGC does not intend to answer this question.

15. *What types of impacts are of concern? What are effective approaches for mitigating impacts? How can mitigation effectiveness and compliance with Federal environmental statutes be assessed?*

IAGC does not intend to answer this question.

16. *What regulatory program elements lead to effective enforcement of environmental requirements?*

IAGC does not intend to answer this question.

17. *How should environmental management systems be monitored (by the applicant, the MMS or by an independent third party)? What should be the MMS roles versus the roles of industry for ensuring appropriate oversight and governance?*

IAGC does not intend to answer this question.

Program Area: Operational Activities

Specific questions:

18. *What options should MMS consider as alternatives to facility removal? Are there unique issues (such as liability) associated with those options?*

IAGC does not intend to answer this question.

19. *What engineering challenges should be considered when operating in an OCS environment?*

IAGC does not intend to answer this question.

20. *What safety issues exist when operating an energy production facility on the OCS?*

IAGC does not intend to answer this question.

21. *How should operational activities be monitored (e.g. annual on-site inspections with verification of operating plans)? Is there an appropriate role for the applicant and independent third party certification agents? Describe existing models that could serve as a prototype inspection and monitoring program.*

IAGC does not intend to answer this question.

22. *Are there special considerations that MMS should examine in developing an inspection program that covers a diverse set of renewable production facilities? If so, what are they?*

IAGC does not intend to answer this question.

Program Area: Payments and Revenues

Specific questions:

23. *What should the payment structure be designed to collect? Should payments be targeted at charging for use of the seabed? Should payments try to capture the opportunity costs of other activities displaced by the activity? Should the payment structure be designed to capture a portion of the revenue stream, and if so, under what circumstances?*

IAGC does not intend to answer this question.

24. *Offshore renewable energy technologies are in their infancy. Should the payment structure be designed to encourage the development of these activities until the technologies are better established?*

IAGC does not intend to answer this question.

25. *What methods are used by the renewable energy industry to quantify the risk and uncertainty involved with estimating the size of a renewable energy resource, and evaluating its profitability?*

IAGC does not intend to answer this question.

26. *What measures of profitability are commonly used as renewable energy investment decision criteria? How do bonus bids, rents, royalties, fees and other payment methods impact the profitability of these projects?*

IAGC does not intend to answer this question.

27. *Are there economic models available to calculate the profitability of renewable energy proposals?*

IAGC does not intend to answer this question.

28. *Increased reliance on renewable energy offers both economic and environmental benefits. What are the public benefits to society and do they differ from market driven benefits?*

IAGC does not intend to answer this question.

29. *In section 8 (p) of the OCSLA as amended by Section 388 of the Energy Policy Act, the Secretary must require the holder of a lease, easement or right of way granted under that subsection to furnish a surety bond or other form of security. What options should MMS consider to comply with this requirement?*

IAGC does not intend to answer this question.

Program Area: Coordination and Consultation

Specific questions:

30. *While MMS considers this ANPR an appropriate start at consultation with interested and affected parties, what other efforts could be undertaken at this early stage of program development?*

It would be beneficial for the MMS to conduct regional workshops where they could provide interested stakeholders a "primer" on the various alternate uses of the OCS. This would most certainly generate a greater understanding of the technical aspects (proximity to shore, footprint, etc.) of the many potential alternate uses, promote more thoughtful comments in future rulemaking and possibly avoid unnecessary controversy concerning potentially competing activities.

31. *Should a broad approach be taken to developing a program or should efforts be targeted to specific regions with commensurate coordination and consultation?*

Regional management for alternate uses of the OCS would seem to be the most practical approach given that the Gulf of Mexico and offshore Alaska already support oil and gas activity and other areas of the OCS are being considered in the next OCS 5-year lease plan.

32. *Would the establishment of Federal/state cooperatives for targeted areas be useful? Similar to the process for OCS oil and gas program formulation, should we solicit comments on which areas of the OCS should be included or excluded from the program? After establishing where there is consensus in support of program activities, should coordination and consultation efforts be directed to those areas? Conversely, should such efforts be curtailed or abandoned for areas recommended for exclusion?*

A process similar to the 5-year planning process for oil and gas lease sales would assist the MMS and interested stakeholders in developing an early understanding of what areas of the OCS and types of uses are of interest, and we recommend a similar process. By following such a process, MMS and stakeholders would become educated very early of the areas of greatest interest that could present

challenges in managing for multiple uses. Additionally, assuming an environmental impact statement will be required for the siting of alternate uses; this would be accomplished contemporaneously as it is done with the 5-year lease sale planning process for each type of alternative energy project.

33. *What are the critical stages (e.g. site evaluation, application, competitive sale) for consultation with affected parties?*

The most critical stages necessitating consultation with affected parties would be site evaluation and the application process. It is during these two stages that competing or conflicting uses could become aware of the interest by others in an area and a MMS facilitated dialogue could promote a workable solution to the mutual benefit of all parties.

34. *Should procedures for consulting with interested and affected parties be codified in the regulations? In general? In detail?*

The same consultative process used for oil and gas leasing, exploration, development and production should be used for alternate uses of the OCS. This is a process that is familiar to both the MMS and most of the stakeholders with whom MMS will be consulting.

35. *What processes can MMS use to provide for balance between consultations and the time and burden to the projects?*

IAGC does not intend to answer this question.

36. *Are there specific aspects of the new ROW rule issued by the Bureau of Land Management that should be reviewed by MMS for consideration in its rulemaking?*

IAGC does not intend to answer this question.

IAGC appreciates the opportunity to provide comments on the Advanced Notice for Proposed Rulemaking for Alternate Energy-Related Uses on the Outer Continental Shelf. If you have any questions or need additional information, please contact me.

Regards,

Chip Gill
President

Sent via e-mail